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AMENDMENT TO H.R.

OFFERED BY M.

**(Amendment to Medicare Modernization and Prescription
Drug Act of 2002)**

(Page & line nos. refer to Print of June 14, 2002 9:14 PM)

In section 1860C(c) of the Social Security Act (as
proposed to be inserted by section 101(a)(2)) [page 24,
after line 14] add the following new paragraph:

1 “(4) GUARANTEE OF LOWEST PRICE FOR DRUGS FOR
2 BENEFICIARIES.—

3 “(A) IN GENERAL.—Each participating manufac-
4 turer of a covered outpatient drug shall enter into ar-
5 rangements with PDP sponsors or Medicare+Choice
6 organizations offering a prescription drug plan under
7 this part to make available for purchase by such spon-
8 sors or organizations such covered outpatient drug at
9 the price described in subparagraph (B). Those spon-
10 sors or organizations shall make available such pre-
11 scription drugs to medicare beneficiaries enrolled under
12 the prescription drug plan at that price.

13 “(B) DESCRIPTION OF PRICE.—The price at which
14 a participating manufacturer shall make a covered out-
15 patient drug available for purchase by a pharmacy is
16 a price no greater than the manufacturer’s average for-
17 eign price.

18 “(C) DEFINITIONS OF PARTICIPATING MANUFAC-
19 TURER.—In this paragraph:

20 “(i) PARTICIPATING MANUFACTURER.—The
21 term ‘participating manufacturer’ means any man-
22 ufacturer of drugs or biologicals that, on or after
23 the date of the enactment of this Act, enters into
24 a contract or agreement with the United States for



1 the sale or distribution of covered outpatient drugs
2 to the United States.

3 “(ii) AVERAGE FOREIGN PRICE.—

4 “(I) IN GENERAL.—The term “average
5 foreign price” means, with respect to a covered
6 outpatient drug, the average price that the
7 manufacturer of the drug realizes on the sale
8 of drugs with the same active ingredient or in-
9 gredients that are consumed in covered foreign
10 nations, taking into account—

11 “(aa) any rebate, contract term or
12 condition, or other arrangement (whether
13 with the purchaser or other persons) that
14 has the effect of reducing the amount real-
15 ized by the manufacturer on the sale of the
16 drugs; and

17 “(bb) adjustments for any differences
18 in dosage, formulation, or other relevant
19 characteristics of the drugs.

20 “(II) EXEMPT TRANSACTIONS.—The Sec-
21 retary may, by regulation, exempt from the cal-
22 culation of the average foreign price of a drug
23 those prices realized by a manufacturer in
24 transactions that are entered into for charitable
25 purposes, for research purposes, or under other
26 unusual circumstances, if the Secretary deter-
27 mines that the exemption is in the public inter-
28 est and is consistent with the purposes of this
29 paragraph.

30 “(iii) COVERED FOREIGN NATION.—The term
31 “covered foreign nation” means Canada, France,
32 Germany, Italy, Japan, and the United Kingdom.

